



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 6th December, 1991:—

I

BILL No. LV OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1991.
2. In article 356 of the Constitution, in clause (1),—

Short
title.

Amend-
ment of
article
356.

(i) for the words "Government of the State cannot be carried on in accordance with the provisions of this Constitution", the words "Council of Ministers of the State having lost the majority in the Legislative Assembly and there is no possibility of any Government being formed with majority support of the members of the Legislative Assembly or the law and order situation in the State does not permit holding any fresh elections to the Legislative Assembly immediately or measures adopted by the State Government tantamount to subversion of the sovereignty, unity and integrity of the country" shall be substituted;

(ii) before the existing proviso, the following provisos shall be inserted, namely:—

Provided that the fact whether the Council of Minister has lost the majority or not shall be decided on the floor of the Legislative Assembly of the State:

Provided further that the satisfaction of the President whether the Government of the State has adopted measures which tantamount to subverting the sovereignty, unity and integrity of the country shall be based on facts:”.

STATEMENT OF OBJECTS AND REASONS

During the national freedom movement and thereafter the founding fathers of our Constitution conceived of a federal political structure of India recognising the autonomy of the States to a larger measure so that a perfect national unity was achieved on the principle of democracy and equality. They had faith in the leading role of the Centre in the eventualities of external aggression, internal disturbance and armed rebellion in the country. It was expected that the States would ensure their own administration towards the fulfilment of the objectives set out in the Constitution. Both the Centre and the States were considered to be inseparable, each serving the other with the goal of making the nation prosper. The idea was that strong States would only be able to make a strong Centre. But in the past the Centre could not play its part to the satisfaction of all concerned. Because of its superior position in all respects, the Centre's invocation of article 356 in unwarranted situations complicated the whole political atmosphere in the country. A Commission, namely, Sarkaria Commission, had to be set up to go into issues relating to Centre-State relationship. The recommendations formulated by the Commission have not been implemented so far. All this has created serious problems to maintain the unity and integrity of the nation. Serious breaches of trust among the States and the Centre have started developing and it requires immediate solution. The measures suggested in the Bill will generate confidence among the people in the achievement of justice and pave the way for the solution of the vexed problems faced by our nation today and strengthening the unity of the country.

The Bill, therefore, seeks to amend the Constitution to specify the circumstances for the use of the power of the President in the matter of imposition of President's rule in a State.

SUKOMAL SEN

II

BILL No. LX. OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Constitution (Amendment) Act, 1991.

Insertion
of new
article 31.

2. After article 30 of the Constitution, the following article shall be inserted, namely:—

Right to
work.

“31. (1) Every citizen who has attained the age of eighteen years and above shall have the right to work and it shall be the duty of the State to provide him with a suitable job.

(2) Any person who is eligible for employment under clause (1) and has not been provided with a job, shall be entitled to financial assistance from the State which should be adequate for the sustenance of his livelihood till he is provided with a job by the State.

(3) Nothing in clause (1) shall affect the operation of any existing law in so far as it relates, or prevent the State from making any law relating to determination of any professional or technical qualification or physical fitness required for any particular kind of job”.

STATEMENT OF OBJECTS AND REASONS

The founding fathers of our Constitution desired to safeguard the fundamental rights of the Indian Citizens by putting them in black and white in the Constitution. One important fact remains that the right to work has not yet been given constitutional sanctity. It is only mentioned as a Directive Principles of State Policy. The provision is not enforceable and, therefore, the right to work remains only a directive to be adopted by the State and has not yet been made a fundamental right.

In the present situation of unprecedented unemployment in the country, the desire of the founding fathers, as expressed in the Directive Principle of State Policy, should be given its due place in Part III of the Constitution which enshrines the fundamental rights of the citizens.

Further, it will not be possible for a society, preparing to enter into a new century, to contain the seething discontent and frustration without effectively solving the problem of unemployment.

It would, therefore, be in the best interests of the society to strengthen the basis of fundamental rights guaranteed in the Constitution by providing for right to work. It is to be borne in mind that without the right to work the talk of other rights appear to be meaningless to the vast masses of the country.

The Bill seeks to achieve the above object.

SUKOMAL SEN.

FINANCIAL MEMORANDUM

At this stage, it cannot be ascertained what would really be the amount of money required for providing jobs and assistance to the unemployed youths. However, the Bill, if enacted, is likely to involve an annual recurring expenditure of rupees five hundred crores from the Consolidated Fund of India.

A non-recurring expenditure of rupees one hundred crores may be sufficient to start the scheme.

III

BILL NO. LIX OF 1991

A Bill further to amend the Constitution (Scheduled Castes) Order, 1950.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 1991.

(2) It shall come into force at once.

2. In the Constitution (Scheduled Castes) Order, 1950 in paragraph 3, the following proviso shall be added at the end, namely:—

“Provided that a member of the Scheduled Caste belonging to the Hindu or Sikh religion, on conversion to any other religion including Christianity as well as his wife and children, shall continue to receive all the benefits which they were entitled to as members of the Scheduled Caste before such conversion.”.

Short
title
and
commen-
cement.

Amend-
ment of
Para-
graph
3.

STATEMENT OF OBJECTS AND REASONS

There are millions of Hindus converted as Christians in our country. Essentially Scheduled Caste people embraced Christianity in large numbers. But they are not enjoying the benefits available to Scheduled Caste people. Recently the Government had brought forward an amendment to the Constitution (Scheduled Castes) Order, 1950, and included 'Neo Buddhists' in the category. The Scheduled Castes and converted Christians from Scheduled Castes are living in the same village or town under similar social set up. There is no reason to deny them the rights on the ground of conversion. Several Christian organisations have demanded the inclusion of converted christians in the Scheduled Caste category so that they continue to get the benefits available to Scheduled Caste. Their inclusion in the list of Scheduled Caste will be a major step in ameliorating their social and economic conditions.

Hence this Bill.

V. NARAYANASAMY

IV

BILL NO. LIV OF 1991

A Bill to provide for the establishment of a permanent Bench of the High Court of Madras at Pondicherry.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the High Court of Madras (Establishment of a permanent Bench at Pondicherry) Act, 1991.

Short
title.

2. There shall be established a permanent Bench of the High Court of Madras at Pondicherry and such Judges of the High Court at Madras being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Pondicherry in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the Union territory of Pondicherry.

Estab-
lishment
of a per-
manent
Bench of
High
Court of
Madras
at Pondi-
cherry.

STATEMENT OF OBJECTS AND REASONS

There has been a long standing demand for setting up a permanent Bench of the High Court of Madras at Pondicherry. A large number of cases are pending in the Madras High Court for a long time. Litigant public of Pondicherry have to travel a distance of more than 165 kilometres for reaching the High Court of Madras, which is a time consuming and costly affair.

Moreover, in Pondicherry the judges are administering the French Law. Thus, in the interest of speedy and cheap justice and the convenience of the litigant public of Pondicherry, it is necessary to establish a permanent Bench of the High Court of Madras at Pondicherry as early as possible.

The Bill seeks to achieve the above objective.

V. NARAYANASAMY

V

BILL No. LXI OF 1991

A Bill to provide for setting farmers' loans taken from Banks and other financial institutions and to lay guidelines for regulating loans to farmers by such institutions and for matters connected therewith.

WHEREAS the farmers raising loans through financial institutions such as Banks, Co-operative Banks etc. are considerably under pressure because of their default in repayment of instalments of loans which makes them ineligible for fresh loans thereby affecting agricultural production and consequent shortages of food grains in the country and their blackmarketing and profiteering.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Farmers (Removal of Indebtedness) Act, 1991.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 15th day of August, 1947.

Short
title,
extent
and com-
mence-
ment

Defini-
tions.

2. In this Act, unless the context other-wise requires,—

(a) “appropriate Government” means in the case of a State, the State Government and in other case the Central Government;

(b) “farmer” means anyone who owns land for agricultural or horticultural purposes;

(c) “indebtedness” means an obligation to repay a loan obtained from a financial institution;

(d) “loan” means the amount of money taken by a farmer on credit from financial institutions such as banks including co-operative banks and other such agencies giving agricultural loans to farmers.

Settle-
ment of
farmers
loans.

3. The appropriate Government shall, by notification in the official Gazette, order all banks and other financial institutions falling under its jurisdiction and advancing loans to farmers to stop all recovery processes and to start final settlement process in each case where a loan has been taken by a farmer and who has not been able to repay it, and settle all such cases within six months from the date of such notification in the following manner:—

(a) the loan amount shall be segregated in two parts—(i) principal amount and (ii) interest amount;

(b) the simple interest shall be calculated on the principal amount from the date of advancing the loan to the date of starting the settlement process straightaway;

(c) the amount already paid by the farmer shall be adjusted first against the principal amount and then against the interest amount calculated in accordance with the procedure laid down in clause (b);

(d) the remaining unpaid amount shall be divided into Ten equal annual instalments free of interest and shall be recoverable every year but no legal proceedings shall be initiated till the farmer defaults in payment for three years consecutively;

(e) the Banks and other financial institutions shall give concessions for refunding the loan if there is flood, drought or any other natural calamity and fifty per cent. of the amount of such concessions given by a financial institution during a year shall be reimbursed to that institution by the Central Government.

(f) the financial institutions shall charge the rate of interest in such a way as not to exceed the rate of interest given by them on the savings deposited with them by the general investing public;

(g) in the final settlement ways and means shall be devised in such a way that the farmer is not required to pay more than forty per cent. of the original principal amount by way of interest;

(h) if the farmer has made payment under clause (d) to the extent of fifty per cent. of the instalments of unpaid loan, he shall automatically be considered as eligible for fresh loan.

4. The Government shall issue the following guidelines to the Banks and Financial institutions for making fresh loans to the farmers namely:—

Guide-
lines for
fresh loan
to far-
mers.

(a) the Banks and financial institutions shall charge simple interest half per cent. more of than that is paid by them on savings deposited with them by general investing public;

(b) in no case interest shall be calculated aggregately or separately on previous unpaid interest;

(c) whenever there is a natural calamity, existence of which is confirmed by the Administration of State or Union territory, as the case may be, instalments of loan for that year shall be written off treating it as bad debt and fifty per cent of the amount of such concessions given by a financial institution during a year shall be reimbursed to that institution by the Central Government;

(d) the amount repaid by the farmer from time to time shall be adjusted against his instalment payable on the date and shall not in any case be adjusted against the interest amount so that the interest shall be calculated only on the remainder of the principal amount of the loan.

STATEMENT OF OBJECTS AND REASONS

Farmers are the backbone of our economy because the economy depends mainly on the good harvest reaped by the farmers of the country from time to time. The availability of essential commodities of daily use entirely depends upon the good crops reaped by the farmers. Similarly availability of raw material to most of the industries depends upon the agricultural produce. But the farmer who grows food for the entire country and raw material for the industries, always remains under heavy debt throughout his life. Most of the farmers have to take loans from the Banks and other financial institutions for purchasing seeds, fertilizers, bullocks, tractors, tubewells, livestock and for marriages in the family etc. but despite their best intentions they cannot repay the loans in time.

As such the indebtedness of farmers is a chronic and continuing problem. It is, therefore, necessary to resolve this problem to make the farmer free from the clutches of the various financial bodies so that he is able to fully concentrate on getting increased production of farm products on his land. The Government should take lead in this matter by writing off the loan amounts particularly of those farmers who have paid back the principal amount. Similarly in cases of natural calamities the loan recovery should either be stopped or be recovered in such a way that the farmer does not face hardships. Similarly in case of one or two defaults he should not be denied fresh loan by the financial bodies.

This Bill seeks to achieve the above object.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clauses 3 (e) and 4 (c) of the Bill provide for giving concessions to farmers in refunding their loans if there is a famine or other natural calamity in the country and fifty per cent. of the amount of such concessions during a year shall be reimbursed to the financial institutions, by the Central Government. The Bill, therefore, if enacted, is likely to involve an annual recurring expenditure of about ten crores rupees from the Consolidated Fund of India.

A non-recurring expenditure of about rupees Twenty five lakhs will also be involved.

V

BILL No. LXIV of 1991

A Bill to provide for the prevention of hoarding and profiteering in essential commodities of daily use of citizens particularly of commonman in the country and for matters connected therewith.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title,
extent
and
com-
mence-
ment.

1. (1) This Act may be called the Prevention of Hoarding and Profiteering Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “dealer” means any person, partnership or firm carrying on the business of purchasing and selling any of the articles specified in the Schedule to this Act and includes a producer, importer, wholesaler or retailer of such article;

(b) “hoarding” means accumulating essential goods or stocks intended for sale to consumers with a view to cornering such goods so as to create their artificial scarcity and to raise their selling prices thereafter;

(c) “importer” means any person who brings in any of the scheduled articles into the State where he carries on his business from any other place outside the State for sale purposes in the State;

(d) “prescribed” means prescribed by rules made under this Act;

(e) "profiteering" with its grammatical variations and cognate expressions means the sale by a dealer of any scheduled article at a price or rate higher than the rates fixed under section 4 of this Act;

(f) "retailer" means a person who sells any scheduled article to a consumer not being a dealer;

(g) "scheduled article" means any of the articles specified in the Schedule to this Act;

(h) "wholesaler" means a person, partnership or firm who sells any scheduled article to any dealer and includes a broker, commission agent or any other agent having authority to sell any scheduled article belonging to his principal.

3. Hoarding of and profiteering in the scheduled articles is hereby prohibited.

4. Notwithstanding anything contained in any other law for the time being in force, the Central Government shall, by notification in the Official Gazette, fix the maximum rates or prices in respect of the scheduled articles which may be charged by a dealer or retailer in respect of such articles from the consumers:

Provided that different prices may be fixed for different zones or States in the Country.

5. (1) Whoever profiteers in any scheduled article shall be punishable with rigorous imprisonment which may extend to seven years or with fine amounting to not less than twenty five thousand rupees or with both.

(2) The scheduled article or articles in respect of which the offence has been committed or any part thereof, as the court may deem fit, shall be forfeited to the Government.

(3) Any person found deliberately hoarding any scheduled article or any other commodity generally required for daily consumption of commonman, shall be punished with rigorous imprisonment which may extend to seven years or with fine amounting to not less than twenty five thousand rupees or with both and the articles so hoarded by such person shall also be confiscated by the Government.

6. (1) Any dealer, retailer or wholesaler, who without reasonable excuse,—

(a) refuses to sell any scheduled article; or

(b) refuses to sell any scheduled article at the price fixed in respect thereof under section 4,

shall be punishable with rigorous imprisonment which may extend to five years or with fine amounting to not less than ten thousand rupees or with both.

Prohibition of hoarding and profiteering of scheduled articles.

Central Government to fix maximum prices for sale of scheduled articles.

Penalty for hoarding and profiteering.

Penalty for refusal to sell and purchase scheduled articles at fixed price.

(2) Any purchaser or consumer who purchases any scheduled article at a price more than the maximum price fixed thereof under section 4 shall be punishable with rigorous imprisonment which may extend to two years or with fine amounting to not less than two thousand rupees or with both.

Power to search and seize of scheduled articles.

7. When any police officer not below the rank of Inspector has reasonable grounds to believe that there has been a contravention of any of the provisions of this Act, such officer may, after recording in writing the grounds of his belief, at all reasonable hours, enter and search, without any warrant, any place where a dealer, retailer or wholesaler keeps, or is for the time being keeping, any scheduled article, accounts, registers or any thing, such officer may deem fit and, if necessary, inspect, seize or retain all or any of them for so long as they may be required for further investigation into any offence under this Act.

Cognizance of offence and arrest without warrant.

8. (1) Notwithstanding anything contained in the Code of Criminal Procedure 1973, all offences punishable under this Act shall be cognizable.

2 of 1974.

(2) Any Police officer not below the rank of a sub-inspector may arrest without warrant any person against whom a reasonable complaint has been made or credible information has been received of his having been concerned in any of the offences punishable under this Act.

Power to add any other article to the Schedule.

9. The Central Government may, by notification in the Official Gazette, add to the Schedule any other article of daily use, and thereupon the schedule shall be deemed to have been amended accordingly and the article so added shall be deemed to be the scheduled article within the meaning of this Act.

Effect of Orders inconsistent with the provisions of the Essential Commodities Act, 1955 or orders made thereunder.

10. If any order controlling the price of any essential commodity within the meaning of the Essential Commodities Act, 1955, has been made before or after the commencement of this Act and if such essential commodity is also a scheduled article within the meaning of this Act, that order shall have effect notwithstanding anything inconsistent therewith contained in this Act, or any order made thereunder.

10 of 1955.

Power to make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

THE SCHEDULE

[See Sections 2(f) and (9)]

1. Wheat and Wheat products.
2. Rice and Rice in the husk.
3. Pulses.
4. Spices.
5. Edible oils including *Vanaspati*.
6. Sugar.
7. Baby Food.
8. Paper and paper products.
9. Drugs and Medicines.
10. Skimmed Milk Powder.
11. Kerosene oil.
12. *Janta* Cloth.

STATEMENT OF OBJECTS AND REASONS

These days the commonman is in the grip of steep rise in the prices of essential commodities required for his daily use. The prices are rising so menacingly that it has become impossible for the commonman to have two time meals. The worst sufferers are daily wage workers, rickshaw pullers, hawkers, domestic workers and others doing petty jobs. For the common housewives managing of their meagre budget is becoming next to impossible. The situation is further aggravated when the essential commodities are not available in the market despite good harvests in the country. This is because some unscrupulous traders, brokers and middlemen resort to hoarding of essential commodities to create artificial scarcity and thereafter indulge in profiteering in these items for their own vested interests. As a result hoarding and profiteering in foodgrains, medicines and several other commodities which are essential to the daily life of the citizens have become common these days which is adversely affecting the commonman and the country as a whole. But in the absence of deterrent punishment under a specified Act for these offences, these cases are increasing. Therefore, to curb this menace it is felt that severe deterrent punishment should be prescribed for these offences.

This Bill seeks to achieve the above objects.

SURESH PACHOURI

MEMORANDUM REGARDING DELEGATED
LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. It will relate to matters of details only. The delegation of legislative power is of normal character.

V

BILL NO. LXIX OF 1991

A Bill to provide for the rehabilitation and financial assistance to the victims of natural calamities such as floods, droughts, cyclones, hailstorms and earthquakes and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title,
extent
and
com-
mence-
ment.

1. (1) This Act may be called the Victims of Natural Calamities (Rehabilitation and Financial Assistance) Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “Commissioner” means the Commissioner appointed under Section 9;

(b) “Government” means the Central Government;

(c) “natural calamity” includes drought, flood, cyclone, hailstorm, landslide, earthquake or any such eventuality caused by nature;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "victim" means any person who is affected bodily or whose property, livestock, crop, orchard, field or machine and tools have been affected or damaged by any natural calamity.

3. If any person loses his life due to any natural calamity, the Government shall, on an application made in the prescribed form by his surviving next of kin, pay a minimum sum of rupees one lakh as financial assistance to such next of kin of the victim.

Financial assistance in case of death.

4. (1) If any person is injured due to any natural calamity, the Government shall give him such financial relief as may be prescribed according to the nature of injury received by him.

Financial relief and medical aid in case of injury.

(2) In addition to the financial relief referred to in sub-section (1) the victim shall also receive adequate medical aid from the Government for such period as may be prescribed.

5. Every person whose standing crops are damaged due to any natural calamity shall, on an application made in the prescribed form, be given adequate financial assistance by the Government in proportion to the loss caused to the crop by the natural calamity.

Financial assistance for damage to crops.

6. (1) The Government shall provide to every family, whose House has been destroyed by natural calamity, a dwelling house preferably at the same place.

Provision of housing in case of destruction of house and other immovable properties.

(2) If damage has been caused by natural calamity to cultivable or other land of any person the Government shall provide alternative land site to such person within a reasonable distance from his residence.

7. Every person losing his livestock due to natural calamity shall, on an application made on the prescribed form, be paid adequate financial assistance by the Government.

Financial assistance for loss of livestock.

8. The Government or the Government of a State or Union Territory Administration, in whose territorial jurisdiction any person loses his life due to a natural calamity, shall provide a suitable job to one of the eligible dependents of the persons killed in the natural calamity.

Job for the dependent of person killed in natural calamity.

9. The Government shall, as soon as may be, appoint a Commissioner with such other staff as may be necessary for settling the claims and disbursing the financial assistance to the victims of natural calamity under this Act;

Commissioner to settle claims and disburse financial assistance.

Provided that the financial assistance shall be disbursed, as soon as may be, but not later than three months of the occurrence of the natural calamity.

Savings.

10. The provisions of this Act shall be addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to
remove
difficul-
ties.

11. If any difficulty arises in giving effect to the provisions of this Act, the Government may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of such difficulty.

Power to
make
rules.

12. The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Our country is prone to various natural calamities such as floods, droughts, storms, hailstorms, cyclones and earthquakes resulting in extensive damage to life and property. Floods are an annual occurrence in Assam, Bihar, U.P., Madhya Pradesh, West Bengal, Tripura and other parts of the country. Droughts are very common and frequent throughout the country. Cyclones cause havoc in the coastal areas whereas storms and hailstorms are very frequent in hilly areas as well as in the nearby plains. Now the earthquakes have also started worrying the nation. The havoc caused by the October 1991 earthquake in the hills of U.P. is fresh in our memory. We have also not forgotten the extensive damage caused by earthquake in the State of Bihar in the year 1988. As such the natural calamities are some of the causes of our backwardness. It is so because extensive damage is caused by them to standing crops, livestock, cultivable lands, roads, bridges, houses and other property apart from taking away precious human lives. The nation has to divert its resources towards rescue and rehabilitation processes and on repairs and construction of the roads, bridges, fields, buildings etc. which put a heavy burden on the exchequer. Fortunately the entire nation rises to face such calamities but the loss caused thereby can never be recovered by any means.

Of course, we cannot stop the occurrence of natural calamities but certainly with our combined efforts we can minimise the miseries of the victims of such natural calamities by providing them with timely financial relief and extending the rehabilitation programmes to them. As usual, the Central Government has to play the main role in this process. At present there is no law which gives automatic relief to the victims of natural calamities. The States remain dependent on Centre for providing relief to the victims. Sometimes delay is caused in rushing relief due to procedural wrangles. Hence it is felt that statutory provision should be made to help the victims of natural calamities instantly. An attempt has been made in this Bill to provide for giving instant relief to the victims of natural calamities.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for financial assistance of one lakh to the next of kin of a person who dies in any natural calamity. Clause 4 provides for medical aid to the victims. Clause 5 provides for financial assistance for damage to standing crops. Similarly clauses 6 and 7 provide for dwelling units and financial assistance for loss of livestock respectively. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. As the natural calamities cannot be predicted, the recurring expenditure that would be involved cannot be calculated, at this stage. But it is estimated that an expenditure of rupees five hundred crores per annum would be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees fifty lakhs would also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As such the matter will relate to details only. The delegation of legislative power is of normal character.

VIII

BILL NO. LXVIII OF 1991

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1991.

Short
title and
commence-
ment.

(2) It shall come into force at once.

2. After Part XVI of the Constitution, the following Part shall be inserted namely:—

Insertion
of new
Part
XVIA

PART XVI A

“SPECIAL PROVISIONS REGARDING WOMEN

342A. (1) Notwithstanding anything in this Constitution, not less than thirty per cent of the total seats each in the House of the People and the Council of States, shall be reserved for women.

Reserva-
tion of
seats for
women in
the
Houses
of Par-
liament.

(2) The seats reserved in any State or Union territory for women under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or the

Union territory in the House of the People as the population of women in the State or the Union territory or part thereof, as the case may be, bears to the total population of that State or the Union territory.

(3) In respect of the Council of States, the provisions of clause (1) shall apply only to those States or Union territories which have been allocated more than three seats under the Fourth Schedule.

Reserva-
tion of
seats for
women in
the Legis-
lative
Assemblies
of States.

342B. (1) Notwithstanding anything in this Constitution, not less than thirty per cent of the total seats in the Legislative Assembly of every State and Union territory having a Legislative Assembly shall be reserved for women.

(2) The number of seats reserved for women in the Legislative Assembly of any State or Union Territory under clause (1) shall bear as nearly as may be, the same proportion to the total number of women in the State or Union territory or any part thereof, as the case may be, in respect of which seats are so reserved bears to the total population of the State.”

STATEMENT OF OBJECTS AND REASONS

Nearly half of our population is of women but unfortunately they continue to be the suppressed stratum of society in our country. They are still under the clutches of conservative and traditional taboo. They remain illiterate throughout their lives particularly in the rural parts of the country. They play a vital role in our polity but majority of them are not aware of it. Most of them do whatever they are asked to do either by their husbands, or other male guardians. Their number in the Parliament and State Legislatures is negligible. As such their voice does not echo in the Legislatures. For example, at present in the Rajya Sabha there is no woman member representing the States of Gujarat, Himachal Pradesh, Jammu and Kashmir, Kerala which clearly indicates that women are still a negligible lot in Politics. Most of the political parties swear for the upliftment of women but do nothing in this regard. Women can play a direct and meaningful role in our polity and thereby in the shaping of the society if they are adequately represented in our Legislatures. The Government of the day represented by the Indian National Congress has pledged in its 1991 General Election Manifesto to reserve 30 per cent. seats for women in Legislatures. The Government has already introduced Constitution Amendment Bills providing for reservation of seats for women in village Panchayats and Municipal bodies. This step indicates that the Government is sincere in its efforts. But reservation of seats for women in Parliament and State Legislatures is also necessary to fulfil the pledge made to them in the said manifesto and this Bill seeks to achieve this object.

S. S. AHLUWALIA.

IX

BILL NO. LXXVI OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title
and com-
mencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 1991.

(2) It shall come into force at once.

Amendi-
ment of
article
85.

2. In article 85 of the Constitution, in clause (1),—

(a) for the words “six months” the words “three months” shall be substituted; and

(b) the following proviso shall be added at the end, namely:—

“Provided that the House of the People and the Council of the States shall remain in Session and transact Parliamentary business for not less than one hundred and sixty days in a calendar year.”

Amendi-
ment of
article
123.

3. In article 123 of the Constitution, to clause (1) the following proviso shall be added, namely:—

“Provided that no Ordinance shall be repromulgated nor any Ordinance reproducing substantially the provisions of a repealed or lapsed Ordinance shall be promulgated within a period of three years from the date of the promulgation of the earlier Ordinance.”

4. In article 174 of the Constitution, in clause (1),—

(a) for the words “six months” the words “three months” shall be substituted; and

(b) the following proviso shall be added at the end, namely:—

“Provided that the House or each House of the Legislature, as the case may be, shall remain in Session and transact business for not less than one hundred and twenty days in a calendar year.”

5. In article 213 of the Constitution, in clause (1) after the existing proviso the following proviso shall be added, namely:—

“Provided further that no Ordinance shall be repromulgated nor any Ordinance reproducing substantially the provisions of a repealed or a lapsed Ordinance shall be promulgated within a period of three years from the date of the promulgation of the earlier Ordinance.”

Amend-
ment of
article
174.

Amend-
ment of
article
213.

STATEMENT OF OBJECTS AND REASONS

In our country Parliament at the Union level and the Legislature at the State level are the law making bodies. In the Parliament and the State Legislatures not only laws are enacted but other issues of public importance are also discussed through questions, resolutions, motions, calling attention motions, short duration discussions etc. Through these discussions, ways and means to solve the national and local problems are found. These legislative bodies put a check on the Executive also. The performance of the Government is also assessed through various ways such as while passing the budgetary grants or discussing no-confidence motion etc. At the Union level, Rajya Sabha also discusses the working of various Ministries.

All these require a lot of time in the Parliament. But unfortunately the duration of Parliament is curtailed very systematically. The Session period is being reduced consistently since the Sixties, particularly after the sad demise of our first Prime Minister Pandit Jawaharlal Nehru. It was in the year 1956 when the Parliament sat for 165 days in one calendar year. Thereafter the number of sittings has been drastically reduced. As a result even the Legislative business is not completed in the life of one Lok Sabha. The working of some of the important Ministries like Finance, Defence etc. is never subjected to the discussion in the Parliament.

As a result the importance of Parliament has been minimised. The business is rushed through in a hurry without proper or thorough consideration of a measure. As such, the highest institution of our democracy has been virtually reduced to the status of a stamping authority. We ought to give a serious thought in assigning to the Parliament the role of the most effective institution for conducting the affairs of the nation.

The position in the States has become more alarming. Sessions are summoned for 1 or 2 weeks or even for 2 or 3 days. This tendency facilitates the State Governments to govern the States by ordinances. A study reveals that article 213 has been misused by the States on several occasions. If an Ordinance lapses on technical reasons it is repromulgated repeatedly. For example, the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance which was first promulgated on January 13, 1968, and repromulgated thereafter as many as thirty eight times until the 31st December, 1981, covering a span of about 14 years. What was meant to cope with an emergency situation has become a general rule of practice. This tendency is spreading to other States also but, fortunately, the Union Government has not been affected so intensely yet except on a few occasions when it took to questionable recourse to promulgation of an Ordinance.

Hence, it is proposed in this Bill to fix the minimum days of sittings for the Parliament and State Legislatures in a calendar year and restrict the scope of misusing the Ordinance promulgating power of the respective Governments.

Hence, this Bill.

S. S. AHLUWALIA

X

BILL NO. LXVII OF 1991

A Bill to provide for the free and compulsory minimum education for the girl child and other welfare measures to be undertaken by the State for her proper development and for matters connected therewith.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Girl Child (Compulsory Education and Welfare) Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires. —

(a) "appropriate Government" means in case of a State, the State Government and in other cases the Central Government;

(b) "girl child" means any woman who is below the age of sixteen years;

Short
title,
extent
and
commence-
ment.

Defini-
tions.

(c) "prescribed" means prescribed by rules made under this Act,

Compulsory and free educational facilities for the girl child.

3. The appropriate Government shall provide to every girl child,—

(a) compulsory and free education upto the matriculation or secondary level;

(b) study materials, such as, books, note books, stationery etc. free of cost;

(c) free hostel facilities wherever necessary;

(d) school uniforms, shoes, socks free of cost;

(e) scholarships to deserving girl child for her school education and higher education in University/college including medical and technical education.

Provision of nutritious meals to girl child in schools etc.

4. The appropriate Government shall provide nutritious meals free of cost to all the girl students in schools, colleges, institutes, Universities and hostels till such time and in such manner as may be prescribed.

Medical care for the girl child.

5. The appropriate Government shall provide regular free medical aid and health care to every girl child throughout the country.

Vocational training to girl child.

6. (1) The appropriate Government shall formulate a scheme for providing training to the girl child in the following vocations, namely:—

(a) home science;

(b) tailoring;

(c) doll making;

(d) cookery;

(e) food preservation;

(f) embroidery and painting;

(g) knitting and weaving;

(h) interior decoration;

(i) architecture;

(j) midwifery and nursing.

(2) The scheme may also incorporate any other vocation other than those referred to in sub-section (1), from time to time for imparting training to the girl child in such vocation.

Provision of employment.

7. The appropriate Government shall provide proper and gainful employment to every girl child after completion of her education or training in any vocation.

8. It shall be the duty of the head of each family or *Karta* of the family, male or female, to send every girl child of the family to school, college or institution for receiving the education or training, as the case may be, from the normal age of schooling of such girl child.

Head of the family to send the girl child to school for education.

9. Whoever contravenes the provisions of section 8 shall be punishable with imprisonment which may extend to two years or with fine which may extend to two thousand rupees or with both.

Penalty.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Girl child is the most neglected and unwanted one in our country. Most of the families or married couples do not want that a daughter should be born in the family. That is why pre-birth sex determination tests are conducted and if the foetus is that of a girl it is medically terminated or aborted. Thus, it is ensured from all possible angles that a girl child should not come at all on this earth. However, if a lucky one is born, her birth is cursed. The near and dear ones of the family console the couple as if heaven has fallen over them.

While bringing up the children in a family the girl child is always neglected. The boys get the best to eat, wear and enjoy whereas the girl is treated shabbily. Most of the families do not treat their sons and daughters at par. The boy is sent to the best school but the girl is sent to an ordinary school or sometime she is not sent to school at all. She is supposed to do the household chores, eat the leftover and wear whatever is given to her. In the cities the position has changed to some extent but in the rural areas the position remains the same. The only change that appears is that the girls are not killed openly by swords in the public view though poisoning or strangulation is still resorted to in some parts of the country for killing a girl child. All this is not a new development. It is a continuous process and many centuries have witnessed the atrocities on girls. She suffers throughout her life and no one bothers for her.

Ours is a welfare State and we have pledged through our Constitution that there will be no discrimination on the ground of sex, religion, caste or creed in the country. The State has to come forward to rescue and develop the girl child who is neglected by the society. The girl child should be given compulsory and free education, free books, free nutritious diet, free dress and medical care. Deserving girl child should also be given scholarship to continue her studies. After the studies she should be given proper and gainful employment. She must be given training in various vocations. So far as family is concerned it is proposed to make it mandatory for the head of the family to send the girl child to school or he or she should be prosecuted for the offence of not sending the girl child for education.

If the above measures are adopted by the State certainly the position of the girl child can be improved. In view of the fact that we are celebrating the current decade as the "SAARC decade of the Girl Child", it is all the more necessary to evolve a proper policy for the welfare and literacy of the girl child and sincerely implement it throughout the country.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for compulsory and free educational facilities for the girl child. Clause 4 provides for the provisions of nutritious meals to girl child in school etc. Clause 5 provides for medical care for the girl child. Clause 6 provides for scheme for giving training to the girl child in various vocations. Clause 7 provides for gainful employment for the girl child after her education and training. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India to the tune of one hundred crore rupees per annum.

A non-recurring expenditure of about five crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power of a normal character.

SUDARSHAN AGARWAL,
Secretary-General.